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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 INCREMENTO, INC., a California  
14 Corporation,

15 Plaintiff,  
16 v.

17 MAIN STRIP APPAREL, INC.; a  
18 California Corporation, and DOES 1  
19 through 10,

20 Defendants.

21 Case No.:

22 PLAINTIFF'S COMPLAINT FOR:

1. Copyright Infringement, and
2. Vicarious and/or Contributory  
Copyright Infringement

23 Jury Trial Demanded

24 Plaintiff, Incremento, Inc. ("Incremento"), by and through its undersigned  
25 attorneys, hereby prays to this Honorable Court for relief based on the following:

26 **JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§ 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338 (a) and (b).
3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and

1 omissions giving rise to the claims occurred. Venue and personal jurisdiction may also  
 2 be appropriate under Fed. R. Civ. P. 4(k)(2).

3 **PARTIES**

4 4. Plaintiff Incremento, Inc. (“Incremento” or “Plaintiff”), is a corporation  
 5 organized and existing under the laws of the State of California with its principal place  
 6 of business in California.

7 5. Incremento is informed and believes, and thereon alleges, that Defendant  
 8 Main Strip Apparel, Inc., (“Main Strip”) is a corporation organized under the laws of  
 9 and doing business within the State of California.

10 6. Defendants Does 1 through 10, inclusive, are other parties not yet  
 11 identified who have infringed Incremento’s copyrights, have contributed to the  
 12 infringement of Incremento’s copyrights, or have engaged in one or more of the  
 13 wrongful practices alleged herein. The true names, whether corporate, individual or  
 14 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to  
 15 Incremento, which therefore sues said Defendants by such fictitious names, and will  
 16 seek leave to amend this Complaint to show their true names and capacities when  
 17 same have been ascertained.

18 7. Incremento is informed and believes and thereon alleges that at all times  
 19 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
 20 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
 21 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
 22 and/or employment; and actively participated in or subsequently ratified and  
 23 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of  
 24 all the facts and circumstances, including, but not limited to, full knowledge of each  
 25 and every violation of Incremento’s rights and the damages to Incremento  
 26 proximately caused thereby.

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## **CLAIMS RELATED TO SUBJECT DESIGN**

8. Incremento owns all copyrights in an original two-dimensional artwork for purposes of textile production. It allocated this design Incremento's Internal Design Number PNC 11001 ("Subject Design").

9. The Subject Design has been registered with the United States Copyright Office.

10. Prior to the acts complained of herein, the Subject Design was sampled in multiple color schemes to numerous parties in the fashion and apparel industries.

11. Following this distribution of product bearing the Subject Design, Incremento's investigation revealed that certain entities within the fashion and apparel industries had misappropriated the Subject Design, and were selling fabric and garments bearing illegal reproductions and/or derivations of the Subject Design.

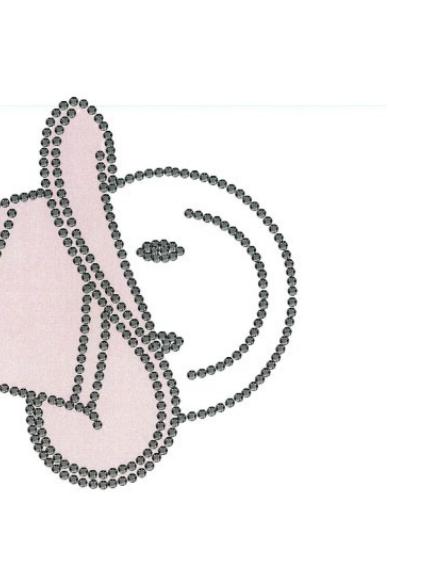
12. Incremento is informed and believes and thereon alleges that, without Incremento's authorization, Main Strip, and certain Doe defendants created, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments bearing fabric featuring a design which is identical to or substantially similar to the Subject Design ("Infringing Products"). Such garments include, but are not limited to, garments sold by Main Strip bearing the label "Main Strip."

13. Below is a comparison of the excerpted Subject Design with exemplars of the Infringing Products:

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<u>Subject Design</u> <u>(PNC-11001)</u>	<u>Offending Products Exemplars</u>												
													
	<p>1/11/24, 1:32 PM FashionGo - CT33736..</p> <p>Fashion Go Wholesale Blazers GO TO DROPSHIPPING</p> <p>Categories Vendors New In Best Of Best Promotion Asia Direct+ Premium FashionGo</p> <p>Home &gt; CT33736..</p> <p><b>Main Strip</b> \$30.00 MIN. ORDER PROCESSING TIME</p> <p><b>Fringe Sleeve Rhinestone Happy Face Crop Top</b> CT33736.</p> <p><b>\$19.00</b></p> <p>EXTRA 5% OFF with FG Coupon</p> <p><b>PRODUCT DETAIL</b> <b>ORDER INFO</b></p> <p>Round Neck Fringe Sleeve Rhinestone Happy Face Solid Crop Top 60% COTTON 40% POLY</p> <p>Fabric Content: 60% COTTON 40% POLY Made in: Imported Label: Labeled</p> <p>Purchase All colors QTY: 1</p> <table border="1"> <thead> <tr> <th>COLOR</th> <th>S</th> <th>M</th> <th>L</th> </tr> </thead> <tbody> <tr> <td>Black</td> <td>2</td> <td>2</td> <td>2</td> </tr> <tr> <td>Periwinkle</td> <td>2</td> <td>2</td> <td>2</td> </tr> </tbody> </table> <p><b>TOTAL</b></p> <p>Estimated Reward: CURRENT POINTS</p>	COLOR	S	M	L	Black	2	2	2	Periwinkle	2	2	2
COLOR	S	M	L										
Black	2	2	2										
Periwinkle	2	2	2										

14. The above comparisons make apparent that the elements, composition, arrangement, layout, and appearance of the design on the garment is substantially similar to the design at issue.

## **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

15. Incremento repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

16. Incremento is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Incremento's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or Doe Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Incremento's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Incremento for its customers.

17. Incremento is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Incremento is further informed and believes and thereon alleges that said Defendant(s) has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailers, which garments infringed the Subject Design in that said garments were composed of fabric which featured unauthorized print design(s) that were identical or substantially similar to the Subject Design, or were an illegal derivation or modification thereof.

18. Incremento is informed and believes and thereon alleges that Defendants, and each of them, infringed Incremento's copyrights by creating, making, and/or developing directly infringing and/or derivative works from the Subject Design by producing, distributing and/or selling garments which infringe the Subject Design through a nationwide network of retail stores, catalogues, and through on-line websites.

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19. Due to Defendants' acts of infringement, Incremento has suffered substantial damages to its business in an amount to be established at trial.

20. Due to Defendants' acts of infringement, Incremento has suffered general and special damages in an amount to be established at trial.

21. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Incremento is entitled to disgorgement of Defendant's profits directly and indirectly attributable to Defendant's infringement of Incremento's rights in the Subject Design in an amount to be established at trial.

22. Incremento is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement. Within the time permitted by law, Incremento will make its election between actual damages and statutory damages.

## **SECOND CLAIM FOR RELIEF**

(For Vicarious and/or Contributory Copyright Infringement - Against All Defendants)

23. Incremento repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

24. Incremento is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of garments featuring the Subject Design alleged herein.

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25. Incremento is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

26. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Incremento has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

27. Due to Defendants', and each of their acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Incremento is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of Incremento's rights in the Subject Design, in an amount to be established at trial.

28. Incremento is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement. Within the time permitted by law, Incremento will make its election between actual damages and statutory damages.

## PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

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## **Against All Defendants**

## With Respect to Each Claim for Relief

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. §§ 101, *et seq.*;
- d. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;
- e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- f. That Plaintiff be awarded the costs of this action; and
- g. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

## **JURY DEMAND**

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Respectfully submitted,

Dated: January 22, 2024 By:

*/s/ Scott Alan Burroughs*

Scott Alan Burroughs, Esq.

Frank R. Trechsel, Esq.

DONIGER / BURROUGHS

*Attorneys for Plaintiff*